

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Joleen K. Youngers, As the Personal
Representative of the Wrongful Death Estate of
Roxsana Hernandez

Plaintiff,

v.

LaSalle Corrections Transport LLC, LaSalle
Corrections West LLC, LaSalle Management
Company LLC, Global Precision Systems LLC,
TransCor America LLC, CoreCivic, Inc., and
United States of America,

Defendants,

and

Global Precision Systems, LLC

Third-Party Plaintiff,

v.

Asset Protection and Security Services, L.P.,

Third-Party Defendant

Case No. 20-cv-00465-WPJ-JHR

**PLAINTIFF'S MOTION FOR COMMISSION
FOR OUT-OF-STATE SUBPOENAS**

Plaintiff Joleen K. Youngers ("Plaintiff"), as the Personal Representative of the Wrongful Death Estate of Roxsana Hernandez ("Roxsana"), by and through her undersigned counsel, submits this unopposed *Motion for Commission for Out-of-state Subpoenas* to compel the depositions of Mitchell A. Amezcuita, Hector G. Ramirez, Fabiola Davenport, and Endy Zavala.

I. BACKGROUND

1. Plaintiff initiated this civil rights action in May 2020 to assert claims arising from the in-custody death of Roxsana Hernandez, a 33-year-old transgender woman who sought asylum in the United States after being brutally raped and targeted by gangs in her home country. Despite showing clear signs of illness associated from her untreated HIV, and in addition to numerous pleas for assistance, the United States and entities contracting with it subjected Ms. Hernandez to a four-state odyssey over two weeks, in which they failed or refused to render her the timely care and medical intervention she required.

2. LaSalle Corrections Transport LLC, LaSalle Corrections West LLC, and/or LaSalle Management Company LLC (collectively “LaSalle”) is a Defendant in this action because it managed, through a contract with ICE, the San Luis Reginal Detention Center (“SLRDC”) in San Luis, Arizona. Ms. Hernandez arrived at the SLRDC on May 14, 2018, five days after she presented herself for asylum at the San Ysidro Port-of-Entry in California on May 9, 2018.

3. Asset Protection and Security Services LP (“Asset Protection”) operated the ICE Service Processing Center in El Paso, Texas (“El Paso SPC”) pursuant to an agreement with Defendant Global Precision Systems, LLC (“GPS”). By the time Ms. Hernandez arrived at El Paso SPC on May 15, 2018, her illness had advanced to a critical stage and she was in immediate need of care.

4. Plaintiff has diligently pursued discovery in this case, particularly through the depositions of current and former employees of the Defendants and third parties. Plaintiff files the instant Motion for Commission in order to effectuate deposition subpoenas for four individuals who reside in Texas: Mitchell A. Amezcua, Hector G. Ramirez, Fabiola Davenport, and Endy Zavala.

5. Amezcua, a former employee of Asset Protection, is a necessary and material witness because he was the booking officer who processed Ms. Hernandez into El Paso SPC. *See*

Aff. of Ken Massey, ¶ 4, attached hereto as **Exhibit A**. He is expected to provide material testimony regarding Ms. Hernandez's condition upon booking at El Paso SPC and the procedures followed by Asset Protection during the booking.

6. Ramirez, a former GPS employee, is a necessary and material witness because he was a detention officer on duty posted at the holding cell Ms. Hernandez was detained by GPS from May 15 to 16, 2018. *See* Aff. of Ken Massey, ¶ 5, attached hereto as **Exhibit A**. He is expected to provide material testimony regarding Ms. Hernandez's condition while in GPS's custody.

7. Davenport, a former Transportation Officer at Asset Protection, is a necessary and material witness because he oversaw the transport by bus of Ms. Hernandez from El Paso SPC to a substation in Albuquerque, New Mexico, for further transport by another contractor. *See* Aff. of Ken Massey, ¶ 5, attached hereto as **Exhibit A**. He is expected to provide material testimony regarding Ms. Hernandez's condition while in Asset Protection's custody and the transport conditions on the bus operated by Asset Protection.

8. Zavala, a former employee of LaSalle, is a necessary and material witness because he was LaSalle's Lieutenant responsible for coordinating the logistics of transferring Ms. Hernandez and other transgender detainees from ICE's Enforcement and Removal Operations in San Ysidro, California to various facilities in California, Arizona, and Texas on May 14-15, 2018. *See* Aff. of Ken Massey, ¶ 6, attached hereto as **Exhibit A**. He is expected to provide material testimony regarding Ms. Hernandez's condition during transport and the transfer of Ms. Hernandez's medical files and paperwork.

II. DISCUSSION

9. Under Federal Rule of Civil Procedure 30(a)(1), "[a] party may, by oral questions, depose any person, including a party, without leave of court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45."

10. A subpoena must be issued by the court where the action is pending. Fed. R. Civ. P. 45(a)(2). But the subpoena power of a court “is limited to its territorial jurisdiction.” *Hegazy v. Mount Sinai Hosp.*, No. 805276/2017, 2022 WL 2954134, at *1, 2022 N.Y. Slip Op. 32525(U), 2 (N.Y. Sup Ct, New York County July 26, 2022); *see also Samra v. Fandango II, LLC*, No. 1:23-CV-00465-MLG-JFR, 2024 WL 1015147, at *4 (D.N.M., 2024) (party seeking to establish inconvenience of litigating in the District of New Mexico “has not indicated that its defense of this case would be hindered by the territorial limits on the forum’s power to subpoena relevant witnesses”) (citation omitted).

11. Under Texas Rule of Civil Procedure 201.2, “[i]f a court of record of any other state or foreign jurisdiction issues a mandate, writ, or commission that requires a witness’s oral or written deposition testimony in this State, the witness may be compelled to appear and testify in the same manner and by the same process used for taking testimony in a proceeding pending in this State.”

12. Accordingly, Texas courts defer to out-of-state courts finding that the deposition of a witness based in Texas is relevant to that out-of-state action. *See In Matter of Issuance of Subpoenas Depositions of Bennett*, 502 S.W.3d 373 (Tex.App.Hous. (14 Dist.), 2016) (Wyoming court had authority to determine whether the requested depositions of Texas witnesses are relevant; reversed lower court’s quash of subpoena of one of the Texas witnesses).

13. Plaintiff has a good faith basis to believe that Mitchell A. Amezquita, Hector G. Ramirez, Fabiola Davenport, and Endy Zavala will each provide material deposition testimony regarding the events claims and defenses in this action. *See supra*, ¶¶ 5-7.

14. Counsel for Defendants have advised Plaintiff’s counsel that they do not oppose the relief sought in this Motion for Commission.

III. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that this Court grant her Motion for Commission in its entirety, in the form of the attached proposed Orders.

Dated: September 6, 2024

Respectfully submitted,

/s/ Ken Massey

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September 2024, I filed the foregoing **PLAINTIFF'S MOTION FOR COMMISSION FOR OUT-OF-STATE SUBPOENAS** electronically through the CM/ECF system, which caused all counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.

Dated: September 6, 2024

Respectfully submitted,

/s/ Ken Massey
Ken Massey, *Pro Hac Vice*

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Third-Party Plaintiff,

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Asset Protection and Security Services, L.P.,

Third-Party Defendant

Case No. 20-cv-00465-WPJ-JHR

[PROPOSED] ORDER

ORDER

Upon Plaintiff's Motion for Commission and all the pleadings and papers in this proceeding, the U.S. District Court for the District of New Mexico issues an open commission to allow the District Court clerk of Harris County, Texas to issue a subpoena to the below address for the remote oral deposition of non-party Endy Zavala, on the 22nd day of October 2024 commencing at 10:00 a.m. Central Time:

Endy Zavala
10946 Gulf Valley Street
Houston, Texas 77075

SUFFICIENT cause appearing therefore, let service of a copy of this order, and the other papers upon which this order is granted, upon the District Court clerk of Harris County, Texas, by on or before the 8th day of October, 2024 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE

Joleen K. Youngers, As the Personal
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[PROPOSED] ORDER

ORDER

Upon Plaintiff's Motion for Commission and all the pleadings and papers in this proceeding, the U.S. District Court for the District of New Mexico, issues an open commission to allow the District Court clerk of El Paso County, Texas to issue a subpoena to the below address for the remote oral deposition of non-party Fabiola Davenport, on the 14th day of October, 2024 commencing at 1:00 p.m. Mountain Time:

Fabiola Davenport
5604 Paradise Lane
El Paso, Texas 79924

SUFFICIENT cause appearing therefore, let service of a copy of this order, and the other papers upon which this order is granted, upon the District Court clerk of El Paso County, Texas, by on or before the 1st day of October 2024 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE

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[PROPOSED] ORDER

ORDER

Upon Plaintiff's Motion for Commission and all the pleadings and papers in this proceeding, the U.S. District Court for the District of New Mexico, issues an open commission to allow the District Court clerk of El Paso County, Texas to issue a subpoena to the below address for the remote oral deposition of non-party Hector G. Ramirez, on the 23rd day of October, 2024 commencing at 9:00 a.m. Mountain Time:

Hector G. Ramirez Jr.
1206 Wahlen Ln.
Fabens, TX 7983

SUFFICIENT cause appearing therefore, let service of a copy of this order, and the other papers upon which this order is granted, upon the District Court clerk of El Paso County, Texas, by on or before the 9th day of October 2024 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE

Joleen K. Youngers, As the Personal
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Hector G. Ramirez Jr.
3266 Peruvian Pesco
El Paso, TX 79938

SUFFICIENT cause appearing therefore, let service of a copy of this order, and the other papers upon which this order is granted, upon the District Court clerk of El Paso County, Texas, by on or before the 9th day of October 2024 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

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[PROPOSED] ORDER

ORDER

Upon Plaintiff's Motion for Commission and all the pleadings and papers in this proceeding, the U.S. District Court for the District of New Mexico, issues an open commission to allow the District Court clerk of El Paso County, Texas to issue a subpoena to the below address for the remote oral deposition of non-party Mitchell A. Amezcuita, on the 14th day of October, 2024 commencing at 9:00 a.m. Mountain Time:

Mitchell A. Amezcuita
624 La Florida Drive
Canutillo, Texas 79835

SUFFICIENT cause appearing therefore, let service of a copy of this order, and the other papers upon which this order is granted, upon the District Court clerk of El Paso County, Texas, by on or before the 1st day of October 2024 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE